



## THORNTON CREEK ALLIANCE

P.O. Box 25690, Seattle, WA 98125

*Restoring an Ecological Balance*

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March 14, 2005

Ms. Diane Sugimura  
Director  
Seattle Department of Planning and Development  
P.O. Box 34019  
Seattle, WA 98124-4019

Dear Ms. Sugimura:

This letter provides Thornton Creek Alliance's comments on the Department of Planning and Development's Draft Proposed update of the City's Environmentally Critical Areas Ordinance. Our comments are focused on proposals for streams, wetlands and other fish and wildlife habitat conservation areas.

There are many aspects of DPD's proposed update we support, including:

- Use of the Washington Department of Ecology's latest wetland rating system;
- The substantial increase in mapped wetlands identified in the City's inventory;
- The process for special protections for Great Blue Herons and other species of local importance;
- Use of a "Riparian Management Area" for streams that extends beyond "no build" buffers;
- Clarification of rules allowing small projects in buffer areas;
- Incentives for daylighting streams in pipes and culverts; and
- Elimination of counter-productive permit requirements for riparian restoration projects.

All of these changes should contribute to improvements in fish and wildlife habitat and water quality in the City over time, as should the many non-regulatory programs and incentives the City has established in recent years to encourage habitat protection and restoration.

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However, there are also a number of aspects of DPD's proposal we believe should be amended, including:

- Perhaps most significantly, the lack of any buffers proposed for the City's shorelines along Puget Sound or Lake Washington (and the related deletion of the lakes and Elliott Bay from the definition of "Fish and Wildlife Habitat Conservation Areas"). It is no excuse, legally or ecologically, to say these issues will be addressed when the City updates its Shoreline Master Program, scheduled for 2009. The Growth Management Act requires protecting the functions and values of these areas NOW.
- The proposed deletion of language limiting new construction over piped or culverted streams.
- Exclusion of small streams from incentives for daylighting.
- The relatively small buffers being proposed for streams, which it is false to say are consistent with best available science.
- Lack of sufficient ecological protections for "small projects" allowed in buffer areas.
- Lack of sufficient regulatory incentives and staff assistance to help citizens restore riparian areas.

We anticipate that others, such as People for Puget Sound and Futurewise, will provide greater details than our creek-focused group on why the City's lake and marine shorelines deserve significant riparian buffers. We only stress that these issues ARE of importance to a creek-focused group, since salmon from our creek use these shorelines for essential life functions. Shoreline buffers play many of the same ecological functions as buffers for streams and wetlands.

We strongly object to the proposed deletion of the City's current standard that "Every effort shall be made to avoid building over a riparian corridor located in an underground pipe or culvert, except when located under a street right of way" (p.55 of the proposed ordinance). This sharply conflicts with the spirit of the new language before and after it, which encourages daylighting streams. If it is good to daylight streams, it is good to protect the opportunity to do so. Thornton Creek Alliance is adamantly opposed to this proposal.

Regarding the new incentives proposed for daylighting, we do not understand why they should be limited to streams that support fish, are more than two-feet wide or drain an area greater than 52 acres (25.09.200.A.4.a.). Smaller creeks support birds and, in some cases, amphibians and other wildlife; they also represent an attractive urban amenity for humans. Daylighting all creeks in the City should be encouraged, and with more incentives than are included in DPD's proposal (e.g., adding reductions in drainage fees, tax benefits under the Public Benefit Rating System, etc.).

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In considering the other issues we raise above, it is important to keep in mind a few basic facts:

- Streams, wetlands and riparian areas in the City have mostly been abused for 150 years; their greatest need, in almost all cases, is not to be left alone, but to be actively restored.
- The overwhelming majority of these areas are on private property. If restoration is going to happen, it will generally be on the initiative of property owners, who will also be responsible for ongoing maintenance (though part of the beauty of true restoration is that it requires relatively little maintenance once established).
- Restoration on private property is most likely to happen if the City encourages it with incentives, education and technical assistance. Regulatory incentives are a crucial part of this mix.

DPD's proposed ordinance mandates that degraded buffers for wetlands and streams be restored as part of proposed developments (25.09.160.D. and 25.09.200.A.3.c.(2)). We are uncertain of the legality of this requirement for redevelopment of existing lots (the most common circumstance in the City), if the redevelopment is not proposing any clearing or construction within the buffer area. Regulatory requirements must have a nexus with the impacts of a proposed development. In other jurisdictions, this is frequently addressed through allowing reductions in buffer widths in exchange for restoration. While this must be done carefully, we would support it in Seattle's Critical Area Ordinance if the proposed buffers—particularly for streams—were larger. DPD's claim that its proposed buffers are "within the range of BAS [best available science] recommendations including: buffers for shade, water temperature and erosion control, removal of sediment and pollution, maintenance of benthic communities and large woody debris recruitment" (Director's Report, p.21) is simply false. BAS generally indicates a need for buffers of at least 100 feet (more in the vicinity of high-intensity land uses, which characterizes almost all of Seattle) for all of these functions. We understand the City must balance multiple growth management objectives, but it should at least be honest about the reason it is proposing buffers less than 100 feet. In Seattle, with so many parcels located entirely or almost entirely within 100 feet of most streams and so much development already located there, we would not ask for buffers of this size as a legal requirement, but we believe 50 feet is certainly too small, especially without adequate incentives for restoration. We would like to see larger buffers proposed, with perhaps the current 50 feet for Class II and III streams and 35 feet for Class IV and V streams as the minimum allowed after reductions provided in exchange for restoration.

In general, we support the "Small Project" waiver for accessory developments of less than 150 square feet in buffer areas (25.09.055). Many of our members live along Thornton Creek or its tributaries, and have been interested to place viewing platforms, tool sheds, small decks and trails in buffer areas. The opportunity to enjoy restored Ms.

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buffer areas, and the birds and other wildlife they attract, is one of the most important incentives to restore and protect them, and the proposed waiver helps that incentive. However, we believe the proposed waiver should require some sort of mitigation for these small projects; it should also be tied to implementation of best management practices during construction. In addition, we are concerned by the size of the 750 square-foot "small projects" allowed in landslide-prone, liquefaction-prone and flood-prone areas. Projects of this size could place both public safety and ecological values at risk, even with mitigation.

Lastly, some brief comments on the City's non-regulatory programs and incentives to encourage restoration of streams, wetlands and their buffers. Overall, we are impressed by the "Restore Our Waters" initiative you developed last year. We support the many good programs and incentives the City is implementing (identified in the Director's Report, pp.30-33), including the "Habitat Restoration Grant and Technical Assistance Program" that Councilmember Jim Compton championed last year. In general, we would only like to see more of all these programs. We believe, however, that one service crucial to the success of these programs is seriously underfunded. The City employs only one FTE, the Watershed Stewardship Coordinator at Seattle Public Utilities, whose job is specifically to help property owners and citizens who want to protect and restore habitat on their property. Even that job is focused to a significant extent on assisting citizens who volunteer to help protect and restore habitat on City lands. The latter is certainly a worthy purpose, but assigning it to this same staff person is a shame when assisting property owners with good stewardship of their lands could keep multiple FTEs busy, with tremendous benefits to our natural systems, benefiting us all.

Thank you for the opportunity to comment on DPD's proposal. If you have any questions about our comments, please feel free to contact John Lombard, our point person on these issues, at (206) 524-2944 or [jlombard2415@earthlink.net](mailto:jlombard2415@earthlink.net).

Sincerely,

Merilee Catero  
President  
Thornton Creek Alliance

cc: Honorable Greg Nickels, Mayor, City of Seattle  
Miles Mayhew, CAO Update Project Manager, DPD  
Kathy Minsch, Thornton Creek Watershed Oversight Council, SPU